

General Information Letter: Overpayments resulting from failure to subtract premium amortization on municipal bonds may be recovered by filing timely refund claims.

April 9, 2007

Dear:

This is in response to your letter dated March 21, 2007. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at [www. tax.illinois.gov](http://www.tax.illinois.gov).

In your letter you have stated the following:

Enclosed are copies of prior correspondence regarding an overpayment of state income taxes by not reporting the actual net interest on my tax free bonds. As you can see from the enclosed examples, I have purchased bonds at a premium but have been reporting the interest received based on par. If you agree could you please tell me how I can ascertain the correct reportable amount and how I can recover years of tax overpayment.

Response

In the case where a taxpayer has purchased a bond at a premium, Section 171(a) of the Internal Revenue Code generally allows the taxpayer a deduction for amortization of the premium. As a practical matter, individuals report this deduction as an adjustment to interest income on Schedule B of their Form 1040 returns.

Section 171(a)(2) of the Internal Revenue Code disallows this deduction with respect to any bond whose interest is excluded from gross income.

For Illinois income tax purposes, an individual is required by Section 203(a)(2)(A) of the Illinois Income Tax Act (35 ILCS 5/203) to add back to his or her federal adjusted gross income any tax-exempt interest. However, Section 203(a)(2)(M) permits the individual to subtract any bond premium amortization whose deduction was disallowed under Section 171(a)(2) of the Internal Revenue Code. For 2004, 2005 and 2006, this subtraction is claimed on Line 14 of the Schedule M, Other Additions and Subtractions for Individuals, to the Form IL-1040, Individual Income Tax Return. For earlier years, this subtraction is simply included as an "other subtraction" on Line 9 of the Form IL-1040.

In order to claim a refund for any year in which you failed to claim this subtraction on your original return, you must file an amended return on Form IL-1040-X. Attach a Schedule M to the amended return for the years in which that schedule was used. The forms are available on our web site at tax.illinois.gov.

In an earlier email to the Department, you asked for how many years back can you claim a refund. In general, the statute of limitations for filing a refund claim is three years after the date the return for the year in question was filed. See Section 911(a)(1) of the Illinois Income Tax Act (35 ILCS 5/911).

There are other provisions that could extend this limitations period beyond the three years, but, without more information, I cannot say whether any might apply.

Section 911(e) provides that, "For purposes of this section a tax return filed before the last day prescribed by law for the filing of such return (including any extensions thereof) shall be deemed to have been filed on such last day." In our regulations at 86 Ill. Admin. Code Section 100.5020(b), we give individuals an automatic extension of 6 months to file their income tax returns, which means until October 15 for a calendar-year taxpayer. Accordingly, if you are a calendar-year taxpayer, you have until October 15, 2007, to file a refund claim for your 2003 year, because the original return was due on October 15, 2004, when the automatic extension is taken into account. More recent years are still within the limitations period for refund claims.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, and in particular if you need to discuss the documentation you will need to support your refund claims, please contact me at (217) 524-3951 or email me at paul.caselton@illinois.gov.

Sincerely,

Paul S. Caselton
Deputy General Counsel – Income Tax